

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

JOHN HICKSON,	)	
Plaintiff	)	
	)	
v.	)	C.A. NO. 14-40069-TSH
	)	
CITY OF WORCESTER, a municipal	)	
Corporation, WORCESTER CITY	)	
MANAGER MICHAEL V. O'BRIEN,	)	
WORCESTER CHIEF OF POLICE GARY	)	
J. GEMME, P.O. JENSEN MARTINEZ,	)	
P.O. STEVEN G. PIGNATARO,	)	
P.O. MICHAEL SULLIVAN, and	)	
P.O. JOSEPH FRANCESE,	)	
Defendants	)	

**DEFENDANTS' MOTION IN LIMINE**  
**TO PRECLUDE REFERENCE TO EXCESSIVE FORCE OR ABUSE**

Defendants, Police Officers Joseph Francese, Jensen Martinez, Stephen Pignataro and Michael Sullivan, hereby move this Court for an order to preclude any references by any lay witnesses and Plaintiff, or by Plaintiff's counsel, to the use of "excessive force" or "abuse" by any Defendant.

Whether there is a use of excessive force by a police officer is a determination that can only be made by an expert who has evaluated the use of force, the circumstances present and the policies and training that govern the conduct of the police officer. There has been no disclosure of such an expert by Plaintiff. Therefore, any such characterization by a lay witness of the officers' conduct would be as a result of an unqualified judgment, without the proper foundation, as well as inflammatory and prejudicial to the Defendants. Any such testimony would also amount to a legal conclusion and usurp the jury's role as the ultimate fact-finder with regard to whether force was excessive, in violation of Plaintiff's constitutional rights.

WHEREFORE, Defendants move this Court to grant this Motion in Limine to Preclude Reference to “excessive force” or “abuse.”

JOSEPH FRANCESE  
JENSEN MARTINEZ  
STEPHEN PIGNATARO  
MICHAEL SULLIVAN

By their attorneys,

David M. Moore,  
City Solicitor

/s/ Wendy L. Quinn

Wendy L. Quinn (BBO# 653954)  
Kevin M. Gould (BBO #661545)  
Assistant City Solicitors  
City Hall, Room 301  
455 Main Street  
Worcester, MA 01608  
(508) 799-1161  
quinnwl@worcesterma.gov  
gouldk@worcesterma.gov

CERTIFICATE OF SERVICE

I, Wendy L. Quinn, hereby certify that, on this 9th day of June, 2017, the within Defendants’ Motion in Limine to Preclude Reference to Excessive Force or Abuse was served upon all counsel of record through this Court’s electronic filing system as identified on the Notice of Electronic Filing.

/s/ Wendy L. Quinn

Wendy L. Quinn  
Assistant City Solicitor